



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,151	08/22/2001	Gregory Alan Steube	20518/13 (S-8475)	9252

7590

09/26/2003

Mark S. Leonardo, Esq.
Brown Rudnick Freed & Gesmer
One Financial Center
Box IP, 18th Floor
Boston, MA 02111

EXAMINER

MAYNARD, JENNIFER J

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,151

Applicant(s)

STEUBE, GREGORY ALAN

Examiner

Jennifer J Maynard

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 & 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, recites "a needle hub assembly" in the preamble of the claim however the body of the claim positively recites "a barrel tip" in line 4, it is unclear whether Applicant intends to claim the subcombination of the needle hub assembly, or the combination of the needle hub assembly and syringe. Clarification and correction is required.

Claim 5, recites "a needle assembly" in the preamble of the claim however the body of the claim positively recites "a barrel" in line 5, it is unclear whether Applicant intends to claim the subcombination of the needle assembly, or the combination of the needle assembly and syringe. Clarification and correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Ejlersen (US 5,968,021 A).

Ejlersen discloses a needle hub assembly comprising a needle hub (2) defining an interior cavity (no reference numeral) and at least one fin (9) being disposed therein, wherein, the at least one fin engages a barrel tip (4) when disposed within the interior cavity.

Claims 1-4, 18 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Caizza (US 5,964,737 A).

Caizza discloses a needle hub assembly comprising a needle hub (18) defining an interior cavity (100) and at least one (annular) fin (134) being disposed therein, wherein, the at least one fin engages a barrel tip (38) when disposed within the interior cavity.

Claims 1-7, 10-17 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Young (US 4,040,421 A).

Young discloses a needle hub assembly (24) comprising a needle hub (26) including a needle support (28), a hub skirt (48), and defining an interior cavity (16) and at least one (annular) fin (54) being disposed therein, wherein, the at least one fin engages a barrel tip (14) when disposed within the interior cavity.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3763

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15, 17, 19 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haber (US 4,935,014 A) in view of Ejlersen (US 5,968,021 A).

Haber discloses a needle hub assembly comprising a needle hub (16, 22) including a needle support (24, 26), a hub skirt (18), and defining an interior cavity (no reference numeral), wherein a barrel tip (8) can be disposed within the interior cavity.

Haber fails to disclose at least one fin disposed within the interior cavity of the needle hub.

Ejlersen discloses a needle hub assembly comprising a needle hub (2) defining an interior cavity (no reference numeral) and at least one fin (9) being disposed therein, wherein, the at least one fin engages a barrel tip (4) when disposed within the interior cavity.

It would have been obvious to one having ordinary skill in the art to have modified Haber with at least one fin disposed within the interior cavity of the needle hub as taught by Ejlersen, so as to keep the barrel tip centered in the hub skirt.

Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jentzen (US 5,902,270 A) in view of Ejlersen (US 5,968,021 A).

Jentzen discloses a needle hub assembly (20) comprising a needle hub (400) including a needle support (403), a hub skirt (no reference numeral), and defining an interior cavity (no reference numeral), wherein a barrel tip (104) can be disposed within the interior cavity.

Art Unit: 3763

Jentzen fails to disclose at least one fin disposed within the interior cavity of the needle hub.

Ejlersen discloses a needle hub assembly comprising a needle hub (2) defining an interior cavity (no reference numeral) and at least one fin (9) being disposed therein, wherein, the at least one fin engages a barrel tip (4) when disposed within the interior cavity.

It would have been obvious to one having ordinary skill in the art to have modified Jentzen with at least one fin disposed within the interior cavity of the needle hub as taught by Ejlersen, so as to keep the barrel tip centered in the hub skirt thus ensuring alignment of the barrel tip outlet and the proximal inlet of the needle support and avoiding partial obstruction due to misalignment.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer J Maynard whose telephone number is 703.305.1356. The examiner can normally be reached on Mondays-Fridays 9:30 AM-5:30 PM; 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703.308.3552. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.

J Maynard
17 September 2003




BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700